



SAN DIEGO
COASTKEEPER

February 9, 2015

VIA CERTIFIED MAIL

A-1 Alloys Recycling Center
Attention: Managing Agent
724 Civic Center Drive
National City, California 91950

A-1 Alloys, Inc.
3330 Beyer Blvd. Suite F
San Diego, California 92173

VIA U.S MAIL

Jerry Williams
Registered Agent for
A-1 Alloys, Inc.
1401 Cleveland Avenue
National City, California 91941

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To Whom It May Concern:

I am writing on behalf of San Diego Coastkeeper ("Coastkeeper") in regard to violations of the Clean Water Act¹ and California's Storm Water Permit² occurring at the A-1 Alloys Recycling Center located at 724 Civic Center Drive in National City, California 91950 ("A-1 Alloys Facility" or "Facility"). This letter is being sent to you as the responsible owner and/or operator of the A-1 Alloys Facility, or as the registered agent for this entity. This letter puts A-1 Alloys, Inc. (hereinafter referred to as the "A-1 Alloys Facility Owner and/or Operator") on notice of the violations of the Storm Water Permit occurring at the A-1 Alloys Facility including, but not limited to, discharges of polluted storm water from the A-1 Alloys Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the A-1 Alloys Facility Owner and/or Operator is liable for violations of the Storm Water Permit and the Clean Water Act.

¹ Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

² National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ.

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619.758.7743
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Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that a citizen give notice of his/her intention to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a). Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the state in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1).

By this letter issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, (hereinafter "Notice Letter"), Coastkeeper puts the A-1 Alloys Facility Owner and/or Operator on notice that after the expiration of sixty (60) days from the date of this Notice Letter, Coastkeeper intends to file an enforcement action in Federal court against it for violations of the Storm Water Permit and the Clean Water Act.

I. BACKGROUND

A. San Diego Coastkeeper

San Diego Coastkeeper's office is located at 2825 Dewey Road, Suite 200 in San Diego, California 92106. Coastkeeper is a nonprofit organization committed to protecting and restoring the San Diego region's water quality and supply. A member of the international Waterkeeper Alliance, Coastkeeper's main purpose is to preserve, enhance, and protect the San Diego's marine sanctuaries, coastal estuaries, wetlands and bays from illegal dumping, hazardous spills, toxic discharges and habitat degradation. Coastkeeper implements this mission through outreach and education programs that work to prevent water pollution, as well as community activism, participation in governmental hearings, and prosecuting litigation to ensure that San Diego's beaches, bays, coastal waters and tributary streams and rivers meet all substantive water quality standards guaranteed by Federal, State and local statutes and regulations.

Members of Coastkeeper use and enjoy the waters into which pollutants from the A1 Alloys facility's ongoing illegal activities are discharged, including San Diego Bay and the Pacific Ocean. The public and members of Coastkeeper use these receiving waters to fish, sail, boat, kayak, surf, stand-up paddle, swim, scuba dive, birdwatch, view wildlife, and to engage in scientific studies. Procedural and substantive violations of the Storm Water Permit including, but not limited to, the discharge of pollutants from the A-1 Alloys Facility impair each of these uses. Further, these violations are ongoing and continuous. Thus, the interests of Coastkeeper's members have been, are being, and will continue to be adversely affected by the A-1 Alloys Facility Owner's and/or Operator's failure to comply with the Storm Water Permit and the Clean Water Act.

B. The Owner and/or Operator of the A-1 Alloys Facility

Information available to Coastkeeper indicates that A-1 Alloys, Inc. is an owner and/or operator of the A-1 Alloys Facility. A-1 Alloys, Inc. is an active corporation

registered in California. The registered agent for A-1 Alloys, Inc. is Jerry Williams, located at 1401 Cleveland Avenue in National City, California 91941.

The A-1 Alloys Facility Owner and/or Operator has violated and continues to violate the procedural and substantive terms of the Storm Water Permit including, but not limited to, by illegally discharging pollutants from the A-1 Alloys Facility into local surface waters. As explained herein, the A-1 Alloys Facility Owner and/or Operator is liable for violations of the Storm Water Permit and the Clean Water Act.

C. The A-1 Alloys Facility's Storm Water Permit Coverage

Prior to beginning industrial operations, dischargers are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI") to the State Water Resources Control Board ("State Board"). *See* Storm Water Permit, Finding #3. The A-1 Alloys Facility Owner and/or Operator submitted an NOI for the A-1 Alloys Facility in 2006 ("2006 NOI"). The State Board assigned Waste Discharge Identification ("WDID") number 9-37I020171 for the A-1 Alloys Facility. The A-1 Alloys Facility Owner and/or Operator lists the Standard Industrial Classification ("SIC") code for the A-1 Alloys Facility as 5093 (Scrap and Waste Materials).

D. Storm Water Pollution and the Waters Receiving the A-1 Alloys Facility's Discharges

With every significant rainfall event, millions of gallons of polluted storm water originating from industrial operations such as the A-1 Alloys Facility pour into storm drains and local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and adversely impact aquatic-dependent wildlife. These contaminated discharges can and must be controlled for downstream ecosystems to regain their health.

Storm water discharges from scrap metal recycling facilities, like the A-1 Alloys Facility, contain pollutants such as oil and grease ("O&G"), total suspended solids ("TSS"), specific conductance ("SC"), plastics, and heavy metals (such as copper, iron, lead, aluminum, and zinc). Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm. Discharges of polluted storm water to the San Diego Bay and its tributaries pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The San Diego Bay and its tributaries are receiving waters for discharges from the A-1 Alloys Facility. The San Diego Bay and the nearby San Diego Bay National Wildlife Refuge are ecologically sensitive areas. Although pollution and habitat destruction have drastically diminished once-abundant and varied fisheries, the San Diego Bay and its

tributaries still provide essential habitat for dozens of fish, bird, and invertebrate species. These pollutants harm the special aesthetic and recreational significance that the San Diego Bay has for people in the surrounding communities, including Coastkeeper's members. The public's use of the San Diego Bay and its tributaries for water contact sports exposes people to toxic metals and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the San Diego Bay and its tributaries.

The California Regional Water Quality Control Board, San Diego Region, ("Regional Board") issued the *Water Quality Control Plan for the San Diego Basin* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the San Diego Bay near the point at which it receives polluted storm water discharges from the A-1 Alloys Facility (i.e., San Diego Bay) include: Preservation of Biological Habitats of Special Significance; Water Contact Recreation; Non-contact Water Recreation; Wildlife Habitat; Commercial and Sport Fishing; Estuarine Habitat; Marine Habitat; Migration of Aquatic Organisms; Spawning, Reproduction, and/or Early Development; Shellfish Harvesting; and Rare, Threatened, or Endangered Species. See Basin Plan at Table 2-3. The San Diego Bay is on the 303(d) list as impaired for numerous constituents, including sediment toxicity, copper, zinc, mercury, benthic community effects, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and bacteria. Polluted discharges from industrial sites such as the A-1 Alloys Facility contribute to the degradation of these already impaired surface waters and of the ecosystems that depend on these waters.

II. THE A-1 ALLOYS FACILITY AND ASSOCIATED DISCHARGES OF POLLUTANTS

A. The A-1 Alloys Facility Site Description

Information available to Coastkeeper indicates that the A-1 Alloys Facility is at least 0.59 acres and 90% impervious. The Facility property is bordered by Civic Center Drive to the north, Cleveland Avenue to the west, an I-5 offramp to the south, and Harbor Drive to the east. The points of egress/ingress to the Facility number in three (3 total), including two (2) driveways leading to Civic Center Drive, and one (1) driveway to the west leading to Cleveland Avenue.

Information available to Coastkeeper indicates the facility contains one main building located at the center of the Facility used for processing, sorting, and storing materials received. At the north edge of the Facility property is located a metal carport for the receiving of materials from incoming cars and trucks. The eastern, southern, and parts of the western portions of the Facility property are used for storage of materials. The egress/ingress driveways on Cleveland Avenue serve as entry and exit points for drive-through recycling services for both members of the public and A-1 Alloy vehicles picking up and dropping off bins containing recycled and scrap materials. Materials are unloaded at the drop off location on the north side of the property and then are sorted

C. A-1 Alloys Facility Storm Water Flows and Discharge Locations

The A-1 Alloys Facility Owner and/or Operator reports that there is one (1) discharge point located at the Facility, which they identify as Northwest Corner, or NW. Discharges from the Facility flow to the municipal separate storm sewer system, which flows to the San Diego Bay.

III. VIOLATIONS OF THE CLEAN WATER ACT AND THE STORM WATER PERMIT

In California, any person who discharges storm water associated with industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); *see also* Storm Water Permit, Fact Sheet at VII.

A. Discharges of Polluted Storm Water from the A-1 Alloys Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit

Effluent Limitation B(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of best management practices ("BMPs") that achieve best available technology economically achievable ("BAT") for toxic pollutants³ and best conventional pollutant control technology ("BCT") for conventional pollutants.⁴ Benchmark Levels are relevant and objective standards to evaluate whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.⁵

Storm water sampling at the A-1 Alloys Facility demonstrates that the Facility's storm water discharges contain concentrations of pollutants above the Benchmark Levels. *See* Exhibit A (table listing the Facility's storm water samples exceeding Benchmark Level(s), as reported to the Regional Board by the A-1 Alloys Facility Owner and/or Operator). The repeated and significant exceedances of Benchmark Levels demonstrate that the A-1 Alloys Facility Owner and/or Operator has failed and continues to fail to develop and/or implement BMPs to prevent the exposure of pollutants to storm water and to prevent discharges of polluted storm water from the A-1 Alloys Facility, in violation of Effluent Limitation B(3) of the Storm Water Permit.

³ Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

⁴ Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand, total suspended solids, oil and grease, pH, and fecal coliform.

⁵ *See* EPA Proposed Multi-Sector General Permit (2013), Fact Sheet, p. 50; *see also*, EPA Multi-Sector General Permit (2008), Fact Sheet, p. 106; EPA Multi-Sector General Permit, 65 Federal Register 64839 (2000).

Information available to Coastkeeper indicates that the A-1 Alloys Facility Owner and/or Operator violates Effluent Limitation B(3) of the Storm Water Permit each time storm water is discharged from the A-1 Alloys Facility as a result of its failure to develop and/or implement BMPs that achieve BAT/BCT. *See e.g.*, Exhibit B (setting forth dates of rain events resulting in a discharge at the Facility).⁶ These discharge violations are ongoing and will continue each day the A-1 Alloys Facility Owner and/or Operator discharges polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Coastkeeper will update the number and dates of violation when additional information and data becomes available. Each time the A-1 Alloys Facility Owner and/or Operator discharges polluted storm water in violation of Effluent Limitation B(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The A-1 Alloys Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 9, 2010.

B. Discharges of Polluted Storm Water from the A-1 Alloys Facility in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable water quality standard ("WQS").⁷ Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

As explained above in Section I.D, the current 303(d) List of Impaired Water Bodies lists the San Diego Bay as impaired for multiple pollutants. Information available to Coastkeeper indicates that the A-1 Alloys Facility's storm water discharges contain

⁶ Exhibit B sets forth dates of rain events as measured at the Lindbergh Field Station from Jan 1, 2010 to Jan 1 2015. At a minimum discharges occur at the Facility during significant rain events, which are defined by EPA as a rainfall event generating 0.1 inches or more of rainfall (the amount that generally results in measurable discharges at a typical industrial facility).

⁷ As explained above in Section I.D, the Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of the Receiving Waters' Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"), and the water quality objectives in the Basin Plan.

elevated concentrations of pollutants, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the San Diego Bay. *See e.g.*, Exhibit A (table listing the Facility's storm water samples containing pollutants at elevated levels). Discharges of elevated concentrations of pollutants in the storm water from the A-1 Alloys Facility also adversely impact human health. These harmful discharges from the A-1 Alloys Facility are violations of Receiving Water Limitation C(1).

The A-1 Alloys Facility storm water discharges also contain concentrations of pollutants that cause or contribute to violations of applicable WQSs. *See* Exhibit A (table listing the Facility's storm water samples exceeding applicable WQSs, as reported to the Regional Board by the A-1 Alloys Facility Owner and/or Operator). Storm water discharges from the A-1 Alloys Facility that cause or contribute to exceedances of WQSs are violations of Receiving Water Limitation C(2).

Information available to Coastkeeper indicates that the storm water discharges from the A-1 Alloys Facility violate Receiving Water Limitations C(1) and/or C(2) each time storm water is discharged from the Facility. These violations are ongoing, and will continue each time contaminated storm water is discharged in violation of Receiving Water Limitation C(1) and/or C(2) of the Storm Water Permit. Each time discharges of storm water from the Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). Each time discharges of storm water from the A-1 Alloys Facility cause or contribute to an exceedance of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). Coastkeeper will update the number and dates of violations when additional information becomes available. The A-1 Alloys Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 9, 2010.

C. Failure to Develop, Implement and/or Revise an Adequate Storm Water Pollution Prevention Plan

Section A(1) and Provision E(2) of the Storm Water Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objectives of the SWPPP requirement are to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the A-1 Alloys Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9), and must be revised as necessary to ensure compliance with the Storm Water Permit. *Id.*, Sections A(9) and (10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, areas of industrial activity, and other features of the facility and its industrial activities (*see* Storm Water Permit, Section A(4)); a list of significant materials handled and stored at the site (*see* Storm Water Permit, Section A(5)); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, non-storm water discharges and their sources, and locations where soil erosion may occur (*see* Storm Water Permit, Section A(6)). Sections A(7) and A(8) of the Storm Water Permit require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

The A-1 Alloys Facility Owner and/or Operator has been conducting operations at the Facility with an inadequately developed and/or implemented SWPPP. For example, information available to Coastkeeper indicates that the Facility site map fails to include all the information required by Section A(4) of the Storm Water Permit, including but not limited to all storm water discharge locations. The A-1 Alloys Facility Facility Owners and/or Operators have also failed and continue to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility, as required by the Storm Water Permit. The SWPPP inadequacies are documented by the continuous and ongoing discharge of storm water containing pollutant levels that exceed EPA Benchmarks and applicable WQS. *See, e.g.,* Exhibit A.

The A-1 Alloys Facility Owner and/or Operator has also failed to revise the Facility's SWPPP to ensure compliance with the Storm Water Permit. Despite the significant concentrations of pollutants in the Facility's storm water discharges each year, information available to Coastkeeper indicates that the SWPPP was not revised to include additional BMPs to eliminate or reduce these pollutants, as required by the Storm Water Permit.

The A-1 Alloys Facility Owner and/or Operator has failed to adequately develop, implement, and/or revise a SWPPP, in violation of Section A and Provision E(2) of the Storm Water Permit. Every day the A-1 Alloys Facility operates with an inadequately developed, implemented, and/or properly revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The A-1 Alloys Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least February 9, 2010. These violations are ongoing, and Coastkeeper will include additional violations when information becomes available. The A-1 Alloys Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 9, 2010.

D. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate Monitoring and Reporting Program ("M&RP") by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.*

Sections B(3) – B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one storm event per month during the Wet Season.⁸ Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. *See* Storm Water Permit, Sections B(3) and B(4). Dischargers must revise the SWPPP in response to these observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and B(7) of the Storm Water Permit require dischargers to visually observe and collect samples of storm water from all locations where storm water is discharged. Under Section B(5) of the Storm Water Permit, the facility owners and/or operators are required to collect at least two (2) samples from each discharge location at their facility during the Wet Season. Storm water samples must be analyzed for TSS, pH, SC, total organic carbon or O&G, and other pollutants that are likely to be present in the facility's discharges in significant quantities. *See* Storm Water Permit, Section B(5)(c). The Storm Water Permit requires facilities classified as SIC code 5093, such as the A-1 Alloys Facility, to also analyze storm water samples for zinc, iron, lead, aluminum, copper and Chemical Oxygen Demand. *Id.*; *see also* Storm Water Permit, Table D (Sector N).

Section B(7)(d) of the Storm Water Permit allows for the reduction of sampling locations in very limited circumstances when "industrial activities and BMPs within two

⁸ The Wet Season is defined as October 1 – May 31.

or more drainage areas are substantially identical.” If a discharger seeks to reduce sampling locations, the “[f]acility operators must document such a determination in the annual report.” *Id.*

The A-1 Alloys Facility Owner and/or Operator has been conducting operations at the A-1 Alloys Facility with an inadequately developed, implemented, and/or revised M&RP. For example, the A-1 Alloys Facility Owner and/or Operator has failed and continues to fail to conduct the required quarterly visual observations of unauthorized, and authorized, non-storm water discharges, in violation of Section B(3) of the Storm Water Permit. Additionally, the A-1 Alloys Facility Owner and/or Operator has failed to conduct the monthly visual observations of storm water discharges as required by Section B(4) of the Storm Water Permit.

The A-1 Alloys Facility Owner and/or Operator also failed to collect and analyze storm water samples as required by the Storm Water Permit. For example, except for the 2013/2014 Wet Season, only one storm water sample was collected, rather than the two storm water samples required by Section B(5) of the Storm Water Permit, despite qualifying rain events. In addition, the A-1 Alloys Facility Owner and/or Operator has never collected storm water samples from all discharge locations at the Facility.

The A-1 Alloys Facility Owner’s and/or Operator’s failure to conduct sampling and monitoring as required by the Storm Water Permit demonstrates that it has failed to develop, implement, and/or revise an M&RP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit. Every day that the A-1 Alloys Facility Owner and/or Operator conducts operations in violation of the specific monitoring requirements of the Storm Water Permit, or with an inadequately developed and/or implemented M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The A-1 Alloys Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit’s M&RP requirements every day since at least February 9, 2010. These violations are ongoing, and Coastkeeper will include additional violations when information becomes available. The A-1 Alloys Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 9, 2010.

E. Failure to Comply with the Storm Water Permit’s Reporting Requirements

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B(14) requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13).

The A-1 Alloys Facility Owner and/or Operator has failed and continues to fail to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, in each Annual Report since the filing of the 2009-2010 Annual Report, the A-1 Alloys Facility Owner and/or Operator certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Coastkeeper indicates that these certifications are erroneous. For example, although storm water samples collected from the Facility have consistently contained elevated concentrations of pollutants, demonstrating that BMPs must be revised, the Annual Report fails to address this, as required by the Storm Water Permit. Moreover, the A-1 Alloys Facility Owner and/or Operator has never conducted the Annual Comprehensive Site Compliance Evaluation Report (ACSCER), as demonstrated by the failure to document this assessment in the Annual Report. *See* Annual Reports, Form 5: Annual Comprehensive Site Compliance Evaluation Potential Pollutant Source/Industrial Activity BMP Status.

The A-1 Alloys Facility Owner and/or Operator has also submitted incomplete Annual Reports. For instance, none of the Annual Reports have included an evaluation of the visual observation and sampling and analysis results, in violation of Section B(14) of the Storm Water Permit. In addition, the facility operator must report any noncompliance with the Storm Water Permit at the time that the Annual Report is submitted, including 1) a description of the noncompliance and its cause, 2) the period of noncompliance, 3) if the noncompliance has not been corrected, the anticipated time it is expected to continue, and 4) steps taken or planned to reduce and prevent recurrence of the noncompliance. Storm Water Permit, Section C(11)(d). The A-1 Alloys Facility Owner and/or Operator did not report its non-compliance as required.

Finally, the Storm Water Permit requires a permittee whose discharges violate the Storm Water Permit Receiving Water Limitations to submit a written report identifying what additional BMPs will be implemented to achieve water quality standards. Storm Water Permit, Receiving Water Limitations C(3) and C(4). Information available to Coastkeeper indicates that the A-1 Alloys Facility Owner and/or Operator has failed to submit the reports required by Receiving Water Limitations C(3) and C(4) of the Storm Water Permit. As such, the A-1 Alloys Facility Owner and/or Operator is in daily violation of this requirement of the Storm Water Permit.

Information available to Coastkeeper indicates that the A-1 Alloys Facility Owner and/or Operator has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit. As such, the A-1 Alloys Facility Owner and/or Operator is in daily violation of the Storm Water Permit. Every day the A-1 Alloys Facility Owner and/or Operator conducts operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The A-1 Alloys Facility Owner and/or Operator has been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least February 9, 2010. These violations are ongoing. The

A-1 Alloys Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since February 9, 2010.

**IV. RELIEF AND PENALTIES SOUGHT FOR VIOLATIONS OF THE
CLEAN WATER ACT**

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five (5) years prior to the date of a notice of intent to file suit letter. These provisions of law authorize civil penalties of up to \$37,500 per day per violation for all Clean Water Act violations. In addition to civil penalties, Coastkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Coastkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

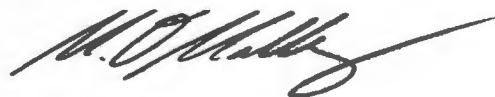
V. CONCLUSION

Coastkeeper is willing to discuss effective remedies for the violations described in this Notice Letter. However, upon expiration of the 60-day notice period, Coastkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the A-1 Alloy's Owner and/or Operator's violations of the Storm Water Permit at the Facility. Please direct all communications to Coastkeeper's legal counsel:

Drevet Hunt
drev@lawyersforcleanwater.com
Lawyers for Clean Water, Inc.
1004-A O'Reilly Avenue
San Francisco, California 94129
Tel: (415) 440-6520

Matt O'Malley
matt@sdcoastkeeper.org
San Diego Coastkeeper
2825 Dewey Rd., #20
San Diego, California 92106
Tel: (619) 758-7743

Sincerely,



San Diego Coastkeeper

SERVICE LIST

VIA U.S. MAIL

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Jared Blumenfeld
Regional Administrator
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

Thomas Howard
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812

David W. Gibson
Executive Officer
San Diego Regional Water Quality Control Board
2375 Northside Drive, Suite 100
San Diego, California 92108

Exhibit A

Exhibit A
Sampling Results that Exceed Benchmarks or Water Quality Standards

Date of sample collection	Sample Location	Parameter	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	California Toxics Rule Criteria	Magnitude of CTR Exceedance
12/7/09	Northwest Corner	Zinc	1.16	mg/L	0.09	12.89	0.09	12.9
12/7/09	Northwest Corner	Iron	7.33	mg/L	1	7.33	none	N/A
12/7/09	Northwest Corner	Aluminum	4.5	mg/L	0.75	6.00	none	N/A
12/7/09	Northwest Corner	Cooper	1.07	mg/L	0.0048	222.92	0.0048	222.9
12/7/09	Northwest Corner	Lead	0.448	mg/L	0.21	2.13	0.21	2.1
10/19/10	Northwest Corner	Zinc	0.786	mg/L	0.09	8.73	0.09	8.7
10/19/10	Northwest Corner	Cooper	0.131	mg/L	0.0048	27.29	0.014	9.4
10/19/10	Northwest Corner	Iron	2.86	mg/L	1	2.86	none	N/A
10/19/10	Northwest Corner	Aluminum	1.32	mg/L	0.75	1.76	none	N/A
4/13/12	Northwest Corner	Zinc	1.12	mg/L	0.09	12.44	0.09	12.4
4/13/12	Northwest Corner	Cooper	0.833	mg/L	0.0048	173.54	0.0048	173.5
4/13/12	Northwest Corner	Iron	7.86	mg/L	1	7.86	none	N/A
4/13/12	Northwest Corner	Aluminum	4.78	mg/L	0.75	6.37	none	N/A
4/13/12	Northwest Corner	Total Suspended Solids	143	mg/L	100	1.43	none	N/A
4/13/12	Northwest Corner	Chemical Oxygen Demand	344	mg/L	120	2.87	none	N/A
4/13/12	Northwest Corner	Aluminum	1.34	mg/L	0.75	1.79	none	N/A
4/13/12	Northwest Corner	Specific Conductance	206	umohs/cm	200	1.03	none	N/A
4/13/12	Northwest Corner	Lead	0.221	mg/L	0.21	1.05	0.21	1.1
12/13/12	Northwest Corner	Zinc	0.695	mg/L	0.09	7.72	0.09	7.7
12/13/12	Northwest Corner	Cooper	0.483	mg/L	0.0048	100.625	0.0048	N/A
12/13/12	Northwest Corner	Iron	3.92	mg/L	1	3.92	none	N/A

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Sampling Results that Exceed Benchmarks or Water Quality Standards

Date of sample collection	Sample Location	Parameter	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	California Toxics Rule Criteria	Magnitude of CTR Exceedance
12/13/12	Northwest Corner	Aluminum	3.03	mg/L	0.75	4.04	none	0
12/13/12	Northwest Corner	Specific Conductance	206	umohs/cm	200	1.03	none	N/A
12/13/12	Northwest Corner	Chemical Oxygen Demand	165	mg/L	120	1.375	none	N/A
11/21/13	Northwest Corner	Total Suspended Solids	152	mg/L	100	1.52	none	N/A
11/21/13	Northwest Corner	Specific Conductance	393	umohs/cm	200	1.97	none	0
11/21/13	Northwest Corner	Chemical Oxygen Demand	238	mg/L	120	1.98	none	N/A
11/21/13	Northwest Corner	Zinc	1.67	mg/L	0.11	15.18	0.09	18.6
11/21/13	Northwest Corner	Iron	6.8	mg/L	1	6.80	none	N/A
11/21/13	Northwest Corner	Aluminum	4.38	mg/L	0.75	5.84	none	N/A
11/21/13	Northwest Corner	Copper	1.92	mg/L	0.0048	400.00	0.0048	400.0
11/21/13	Northwest Corner	Oil and Grease	16	mg/L	15	1.07	none	N/A
11/21/13	Northwest Corner	Lead	0.415	mg/L	0.21	1.98	0.21	2.0
2/28/14	Northwest Corner	Total Suspended Solids	428	mg/L	100	4.28	none	N/A
2/28/14	Northwest Corner	Specific Conductance	228	umohs/cm	200	1.14	none	N/A
2/28/14	Northwest Corner	Chemical Oxygen Demand	1280	mg/L	120	10.67	none	N/A
2/28/14	Northwest Corner	Zinc	2.87	mg/L	0.09	31.89	0.09	31.9
2/28/14	Northwest Corner	Iron	26.1	mg/L	1	26.10	none	N/A
2/28/14	Northwest Corner	Aluminum	18.1	mg/L	0.75	24.13	none	N/A
2/28/14	Northwest Corner	Copper	2.84	mg/L	0.0048	591.67	0.0048	591.7
2/28/14	Northwest Corner	Oil and Grease	19	mg/L	15	1.27	none	N/A
2/28/14	Northwest Corner	Lead	1.41	mg/L	0.21	6.71	0.21	6.7

Exhibit B

Exhibit B
Rainfall Data: February 9, 2010 to Present

DATE	Precipitation in Inches
02/19/2010	0.05
02/20/2010	0.34
02/21/2010	0.04
02/22/2010	0.04
02/24/2010	0.01
02/27/2010	0.73
02/28/2010	0.07
03/06/2010	0.26
03/07/2010	0.42
04/01/2010	0.56
04/05/2010	0.11
04/12/2010	0.68
04/18/2010	0.02
04/20/2010	0.01
04/21/2010	0.27
04/22/2010	0.09
04/28/2010	0.04
05/27/2010	0.01
06/10/2010	0.02
07/15/2010	0.01
07/21/2010	0.01
09/30/2010	0.03
10/04/2010	0.01
10/05/2010	0.01
10/06/2010	0.74
10/18/2010	0.04
10/19/2010	0.91
10/20/2010	0.10
10/23/2010	0.02
10/24/2010	0.05
10/25/2010	0.15
10/30/2010	0.15
11/08/2010	0.07
11/20/2010	0.53
11/21/2010	0.19
11/23/2010	0.01
11/24/2010	0.03
11/27/2010	0.05
12/16/2010	0.01
12/17/2010	0.03
12/18/2010	0.01
12/19/2010	0.13
12/20/2010	0.31
12/21/2010	2.01

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Rainfall Data: February 9, 2010 to Present

DATE	Precipitation in Inches
12/22/2010	1.83
12/25/2010	0.12
12/26/2010	0.09
12/29/2010	0.46
01/02/2011	0.24
01/03/2011	0.02
01/31/2011	0.04
02/16/2011	0.28
02/18/2011	0.56
02/19/2011	0.35
02/20/2011	0.03
02/26/2011	0.82
02/27/2011	0.06
03/06/2011	0.07
03/07/2011	0.07
03/20/2011	0.79
03/21/2011	0.13
03/23/2011	0.34
03/24/2011	0.01
03/25/2011	0.05
04/07/2011	0.06
04/08/2011	0.06
04/09/2011	0.14
05/08/2011	0.02
05/17/2011	0.06
05/18/2011	0.19
05/29/2011	0.09
06/05/2011	0.03
09/05/2011	0.07
09/06/2011	0.06
10/04/2011	0.02
10/05/2011	0.42
10/25/2011	0.02
11/04/2011	0.59
11/05/2011	0.07
11/06/2011	0.05
11/12/2011	1.40
11/20/2011	0.92
11/21/2011	0.09
12/12/2011	0.51
12/13/2011	0.29
12/15/2011	0.04
12/19/2011	0.02
01/15/2012	0.02

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Rainfall Data: February 9, 2010 to Present

DATE	Precipitation in Inches
01/16/2012	0.02
01/21/2012	0.09
01/23/2012	0.27
02/07/2012	0.29
02/13/2012	0.04
02/14/2012	0.22
02/15/2012	0.26
02/27/2012	0.37
02/28/2012	0.01
03/16/2012	0.03
03/17/2012	0.35
03/18/2012	0.13
03/19/2012	0.13
03/25/2012	0.28
03/31/2012	0.05
04/11/2012	0.12
04/13/2012	0.28
04/14/2012	0.02
04/25/2012	0.36
04/26/2012	0.10
05/25/2012	0.02
10/11/2012	0.09
10/12/2012	0.45
10/20/2012	0.02
10/21/2012	0.14
11/08/2012	0.14
11/09/2012	0.04
11/18/2012	0.01
11/30/2012	0.10
12/13/2012	1.56
12/14/2012	0.09
12/15/2012	0.12
12/16/2012	0.01
12/17/2012	0.03
12/18/2012	0.05
12/24/2012	0.12
12/26/2012	0.04
12/29/2012	0.09
12/30/2012	0.08
01/06/2013	0.16
01/07/2013	0.01
01/10/2013	0.04
01/25/2013	0.85
01/26/2013	0.15

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DATE	Precipitation in Inches
02/08/2013	0.27
02/19/2013	0.26
02/20/2013	0.06
02/21/2013	0.04
03/07/2013	0.18
03/08/2013	1.04
04/15/2013	0.01
05/05/2013	0.04
05/06/2013	0.18
05/07/2013	0.04
07/11/2013	0.04
07/26/2013	0.01
10/09/2013	0.07
10/28/2013	0.02
10/29/2013	0.16
11/16/2013	0.01
11/21/2013	0.97
11/22/2013	0.49
11/29/2013	0.01
12/03/2013	0.01
12/05/2013	0.01
12/07/2013	0.10
12/19/2013	0.34
01/30/2014	0.01
02/03/2014	0.09
02/06/2014	0.20
02/07/2014	0.06
02/27/2014	0.14
02/28/2014	0.51
03/01/2014	1.01
03/02/2014	0.24
03/26/2014	0.01
03/27/2014	0.02
04/01/2014	0.05
04/02/2014	0.22
04/05/2014	0.09
04/25/2014	0.01
04/26/2014	0.16
08/02/2014	0.07
08/20/2014	0.01
11/01/2014	0.25
11/02/2014	0.08
11/20/2014	0.03
11/21/2014	0.01

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Rainfall Data: February 9, 2010 to Present

DATE	Precipitation in Inches
12/02/2014	0.42
12/03/2014	0.27
12/04/2014	1.84
12/12/2014	1.05
12/16/2014	0.43
12/17/2014	0.41